

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)
APPEAL DECISION**

FEMA Flood Insurance Appeal Decision #C3

OVERVIEW

The policyholders filed an appeal in August 2020, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied their claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to covered property arising from a claimed loss event dated September 2019.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholders had \$250,000 of building coverage and \$100,000 of personal property coverage.
- Before notifying their flood insurer of the subject flood event, the policyholders filed a claim with their homeowners’ insurance company. The homeowners’ insurer retained an engineer to inspect the property to determine the origin and cause of the moisture damage to the wood flooring in the interior of the building.
- On July 2020, the engineer inspected the property and found the interior floor was damaged due to moisture from multiple sources, including moisture migrating through the foundation and wood floors, moisture due to prior leaks from an ice machine and sink, and moisture migrating through the porch bottom row of brick and door frames due to the high tile floor on the exterior porch. The engineer did not find flood related damages.
- The policyholders notified their flood insurer of the loss on August 2020, nearly one year after the claimed date of loss. Due to the late reporting, the insurer issued a reservation of rights letter and assigned an adjuster to inspect the property.
- In August 2020, the adjuster inspected the property and documented a one-inch water line to the exterior of the building and no water line to the interior of the building. The policyholders provided the adjuster photographs showing standing water in the rear of the property.
- The adjuster canvassed the neighborhood and could not confirm a general and temporary condition of flood. The adjuster also reviewed and submitted the homeowners’ insurer’s engineering report.
- In a letter dated August 2020, the insurer denied coverage citing no general and temporary condition of flood.
- The policyholders appeal the insurer’s denial of coverage.

¹ See 44 C.F.R. § 61.13 (2018); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

² The policyholders file this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholders’ claim. The policyholders’ appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

- In support of their appeal, the policyholders submit photographs, a video, and a Nextdoor notice. Because this information does not respond to the insurer's reason for denial, FEMA's decision is based on the documentation in the claim file.

RULES

The insurer agrees to pay for the direct physical loss by or from flood to insured property, provided the policyholders comply with all terms and conditions of the SFIP.³

The SFIP defines a flood as a general and temporary condition of partial or complete inundation of two or more acres of normally dry land or two or more properties, one of which is the policyholders' property, by an overflow of inland or tidal waters; unusual and rapid accumulation or runoff of surface waters from any source, or mudflow.⁴

The insurer does not cover direct physical loss caused directly or indirectly by water, moisture, mildew or mold damage that results primarily from any condition substantially confined to the building within the policyholders' control to include but not limited to design, structural, mechanical defects, failure or breakage of water or sewer lines, drains, or equipment or water or water-borne material that seeps or leaks on or through the covered property.⁵

The SFIP requires the policyholders to promptly notify the insurer of the loss, make damaged property available for examination, complete an inventory of damaged property showing the description, quantity, and amount of loss, along with bills, receipts, and related documents supporting the loss. The SFIP requires the policyholder provide a signed and sworn-to proof of loss and all bills, receipts, and related documentation fully supporting the amount claimed within 60 days of the date of loss.⁶

ANALYSIS

The policyholders appeal the insurer's denial of coverage due to no general and temporary condition of a flood.

The SFIP requires the policyholders to promptly notify the insurer of the loss. The SFIP requires the policyholder provide a signed and sworn-to proof of loss and all bills, receipts, and related documentation fully supporting the amount claimed within 60 days of the date of loss. Here, the policyholders reported the claim almost one year after the reported flood event. In addition, the policyholders have not submitted a signed proof of loss with the dollar amount requested and supporting documentation. FEMA's review finds that by not promptly reporting the loss, the policyholders prejudiced the investigation of the claim and jeopardized the insurer's ability to investigate the loss and determine the extent of damage caused by or from flood. FEMA's review also finds that without submitting a timely signed and sworn proof of loss with supporting documentation that proves the damages being claimed were directly damaged by flood, the insurer cannot pay the claim.

³ See SFIP (I), (II)(B)(12).

⁴ See SFIP (II)(A)(1).

⁵ See SFIP (V)(D)(4)-(5).

⁶ See SFIP (VII)(J)(1)-(5).

The insurer agrees to pay the policyholders for direct physical loss by or from flood. The SFIP defines a flood as a general and temporary condition of partial or complete inundation of two or more acres of normally dry land or of two or more properties, one of which is the policyholders' property. Here, the adjuster could not confirm a general and temporary condition of flood existed after the inspection and after a canvas of the neighborhood surrounding the policyholders' property. FEMA's review notes the policyholders submitted photographs and video showing standing water from heavy rain. However, FEMA's review finds the policyholders have not provided any evidence to suggest at least two or more properties were flooded on the date of loss, and their property is just over a quarter acre in size. Accordingly, FEMA's review finds the insurer properly denied coverage for no general and temporary condition of flood.

The SFIP does not pay for moisture damage that is within the control of the policyholders. Here, the policyholders initially filed a claim with their homeowner's insurer, and the homeowner's insurer retained an engineer to inspect their property. The adjuster obtained the homeowner's insurer's engineering report and the engineer concluded the interior floors were damaged by moisture from multiple sources, including water migration through the foundation and wood floors and prior leaks from an ice machine and sink. The engineer also concluded there was water migration through the porch's bottom row of bricks and door frames due to the high tile floor on the exterior porch. FEMA's review finds the engineer's report does not attribute any damage to a direct physical loss by or from the subject flood event.

Accordingly, FEMA's review finds the insurer properly denied coverage.

CONCLUSION

Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny coverage due to no general and temporary condition of flood.